IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 14910 of 2007(Y)

PETITIONER:

S.MANIKUTTAN,
PROPRIETOR, AISWARYA INDUSTRIES, OLD CANTEEN,
BUILDING, INDUSTRIAL ESTATE, PAPPANAMCODE,
THIRUVANANTHAPURAM.

BY ADV. SRI.VPK.PANICKER

RESPONDENTS:

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1. KERALA SMALL INDUSTRIES DEVELOPMENT
CORPORATION LTD, REPRESENTED BY MANAGING DIRECTOR,
POST BOX NO.50, SANTHINAGAR,
THIRIVANANTHAPURAM.695 001.

2. ESTATE OFFICER, KERALA SMALL
INDUSTRIES DEVELOPMENT CORPORATION LTD,
MARKETING DIVISION, KOCHI.

BY ADV. SRI.M.A.MANHU, SC, SIDCO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 14910 of 2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT-P1: TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DATED 11/8/2006 BEARING NO. IE (1) TB/TVM/6009/LSE/98

EXT-P2: TRUE COPY OF THE AGREEMENT DATED 6/9/2006 EXECUTED THE DEED THE PETITIONER AND THE 1ST RESPONDENT

EXT-P3 & PE (a): TRUE COPIES OF THE PHOTOGRAPHS OF THE CANTEEN BUILDING

EXT-P4: TRUE COPY OF RECEIPT NO.5523 DATED 11/9/2006 ISSUED BY THE 1ST RESPONDENT ON PAYMENT OF THE ADVANCE DEPOSIT

EXT-P5: TRUE COPY OF RECEIPT BEARING NO.5655 DATED 8/6/2006 ISSUED BY THE 1ST RESPONDENT IN FAVOUR OF THE PETITIONER.

EXT-P6: TRUE COPY OF RECEIPT BEARING NO.12329 DATED 9/11/2006 IN FAVOUR OF THE PETITIONER

EXT-P7: TRUE COPY OF RECEIPT BEARING NO.13258 DATED 2/1/2007 ISSUED BY THE 1ST RESPONDENT

EXT-P8: TRUE COPY OF ONE SUCH REQUEST DATED 31/10.2006 ADDRESSED TO THE 1ST RESPONDENT

EXT-P9: TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 7/3/2007 BEARING NO. IE (1)/TB/TVM/6009/LSE/98

EXT-P10: TRUE COPY OF THE REPRESENTATIONS DATED 9/3/2007 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT

EXT-P11: TRUE COPY OF THE LAWYER'S NOTICE ISSUED BY SHRI. K.JAYACHANDRAN ADVOCATE TO THE 1ST RESPONDENT

EXT-P13: ROUGH SKETCH SHOWING THE MEASUREMENT OF THE PROPERTY LYING WITHIN THE BOUNDARIES MENTIONED IN EXT.P2 LEASE DEED

/TRUE COPY/

P.A. TO JUDGE

ANTONY DOMINIC,J.

W.P (C) No. 14910 of 2007

Dated this the 14th day of August, 2007

J U D G M E N T

Petitioner is the lessee of a shed in Sy. No.591/1 of Nemom Village in Trivandrum Taluk belonging to the 1st respondent. He had submitted Exhibit-P8 application for allotment of additional area on the ground that the area in possession is inadequate for carrying on his industrial activity. Pursuant to Exhibit-P8 1st respondent issued Exhibit-P9 dated 7.3.2007 by which he was allotted a portion of the building measuring 1092.96 sq.ft and the appurtenant land measuring 2.01 cents described in the schedule to the said order. Schedule reveals that the total area of the building and land allotted to the petitioner had an extent of 4.59 cents.

2. It is stated by the 1st respondent that the conditions of Exhibit-P9 were not complied by the petitioner and on the other hand, he made Exhibit - P10 representation followed by Exhibit-P11 lawyer notice. Thereafter, this writ petition was filed praying for quashing Exhibit-P9 and directing the 1st respondent to allot the entire canteen shed and appurtenant land having an extent of 10.5 cents in the Pappanamcode Industrial Estate.

3. A counter affidavit has been filed by the 1st respondent resisting the claim of the petitioner. According to the respondent, Exhibit-P2 lease covered only a portion of the canteen shed and the application for additional extent was considered and Exhibit-P9 order was issued. It is pointed out that since the conditions of Exhibit-P9 were not complied by the petitioner the allotment stood cancelled on the expiry of the period mentioned therein. Even though Exhibit-P9 stood cancelled as above, the petitioner will continue to enjoy the lease of the premise for the full period of Ext.P2 viz., upto 10.8.2011

4. On going through Exhibit-P2, I notice that it was only an area of 1146 sq.ft of the canteen building that was held by the petitioner on lease. Exhibit-P8 was an application made by the petitioner for allotment of additional extent of land. It was on the basis of Exhibit - P8 , by Exhibit-P9 he was allotted a total area of 4.59 cents with a portion of the canteen building. Therefore, the submission of the petitioner that by virtue of Exhibit-P9, area in his possession has been reduced is incorrect in as

much as he did not have any area other than the canteen building leased out by Exhibit-P2 in his possession. The other apprehension expressed by the petitioner is that without determining the lease, the area in his possession is proposed to be alloted to strangers. This is also baseless for the reason that apart from the earmarked area of the canteen building, he did not have any other area in his possession. Therefore, the petitioner cannot object to the allotment of areas to what he had in possession to strangers. Respondents are right in their contention that Exhibit-P9 order stands cancelled on account of non-compliance with its conditions.

However, petitioner will be allowed to hold the canteen building on lease until its term expires on 10.8.2011. Recording the above submission, this writ petition is disposed of.

(ANTONY DOMINIC,JUDGE)

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/True copy/

P.A to Judge

K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007